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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,517	06/15/2000	Gerald Francis McBrearty	AUS000264US1	1942

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EXAMINER

SON, LINH L D

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/594,517

Applicant(s)

MCBREARTY ET AL.

Examiner

Linh LD Son

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-13, 15-21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-13, 15-21, and 23-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1. This written rejection is responding to the amendment received on October 19<sup>th</sup>, 2004.
2. Claims 1-5, 7-13, 15-21, and 23-27 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung, US Patent No. 5241594, in view of Wu, US Patent No. 6539479B1.
5. As per claims 1, 5, and 27, Kung teaches "a method for transmitting data securely between computers, said method comprising: establishing a secure connection between a first computer system and a second computer system, each of the computer systems connected to a computer network" in (Col 5 line 37 to Col 6 line 2, and Col 6 lines 23-40); "sending a password from the first computer system to the second computer system across the secure connection" in (Col 6 lines 23-50); "encrypting one or more packets of data using the key as an encryption key and responsively deciphering the data packets using the key as the encryption key; transmitting the one

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or more packets of data from one of the computer systems to the other computer system; deciphering the one or more packets of data at the receiving computer system using the key as the encryption keys" in (Col 6 lines 23-40); "sending a request from the first computer system to the second computer system prior to the establishing of the secure connection" in (Col 6 lines 23-40); and "responding to the request by the second computer system, the response further including: informing the first computer system that the second computer system accepts the data that is encrypted" in (Col 6 lines 23-40). However, Kung does not teach of implementing the password transferred over the secured communication as the encrypt/decryption keys. Nevertheless, Wu teaches a method of generating a session key to encrypt/decrypt information transmitting between a client and a server with a function of the user's password (Col 5 lines 45-53, and Col 6 line 1-10). It would have been obvious at the time of the invention was made for one having ordinary skill in the art to modify Wu's teaching to use the simple password as the session key instead of spending processing time calculating the session key from the password and incorporate password session key with Kung's teaching to provide a simple-secured communication between two parties.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung, in view of Wu, and further in view of Van Oorschot, US Patent No. 6317829B1.

7. As per claims 2 and 3, Kung and Wu discloses the method as described in claim 1. However, Kung and Wu do not further teach the sending a second password based

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on an event automatically, and the second password replacing the password as the encryption key. Nevertheless, Van Oorschot does teach a method of replacing the password when it is expired (Col 6 lines 21-32). Therefore, it would have been obvious at the time of the invention was made for one having ordinary skill in the art to incorporate Van Oorschot teaching with Kung's and Wu's method to ensure a high security level of encryption at all time.

8. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung, in view of Wu, and further in view of Tachibana, Noriyuki (JP/363039228A).

9. As per claims 4 and 7, Kung and Wu disclose the method as described in claims 1. However, Kung and Wu do not teach the changing the password using the counter as part of the password and incremented the counter after each transmission. Nevertheless, Tachibana, Noriyuki discloses the "Secret securing system" invention, which teaches a method of using of the inputted digit as part of the password (also well known in the art as Counter) as password information and the time interval of the inputting a password to check the validity of the password (See the Constitution and Abstract); It is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate the timer (counter) as pad of the password to expire the password or ensure the validity of the password before accessing a secured resource (See the last sentence of the constitution). Since the password transmission increment the input digit of the password, it is also obvious that the transmission input digit here can be

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preset to expire the password or initialize the sending of a replacement password (See the 2nd d 3rd sentence of the Constitution).

10. Claims 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung in view of Wu, and further in view of Eberle et al (US-4249180).

11. As per claims 8, 9, and 10, Kung and Wu disclose the method and the apparatus as described in claim 1. However, Kung and Wu do not teach: the method of encrypting the data selectively; selection is based on determining a sensitivity of the data; analyze and determine the data packet is encrypted or not before deciphering it. Nevertheless, Eberle et al disclose the "Past dependent microcomputer cipher apparatus" invention, which includes all the features above. Eberle et al teach the use of the predetermined control characters of the encoded data to selectively encrypting or deciphering (Col 1 lines 5-10). The predetermined control character can be used to mark the sensitive data. Therefore it would be obvious at the time of the invention for one of ordinary skill in the art to combine method and as well the apparatus of Eberle et al with Scheidt method to ensure the integrity of the data file and to prevent hacker snooping the data content (Col 1 lines 20-25). Further more, Eberle et al invention mainly focus on a hardware apparatus. Nevertheless, the anticipation of using software instead of hardware to carry out the task is also clearly taught (Col 1 lines 45-55).

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12. Claims 11, 12, 17, 19, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung, in view of Wu, and further in view of Nendell et al, hereinafter "Nendell" (US/668321B2).

13. As per claims 11, 12, 17, 19, 20, and 24, Claim 1 is incorporated. However, neither Kung nor Wu teaches the sending a password from the first computer system to the second computer system. Nevertheless, Nendell discloses the "Verification of Identity of Participant in Electronic Communication" invention, which teaches a method of transmitting a password from the first computer to the second computer to unprotect (decrypt) the information (Col 3 lines 31-51). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate both teaching to allow the security initiation process of the sender and the receiver.

14. Claims 13, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung in view of Wu, further in view of Nendell, and further in view of Van Oorschot.

15. As per claims 13, 15, and 21, Kung, Wu and Nendell disclose the method as described in claims 11, 13, and 19. However, Kung, Wu, and Nendell do not further teach the sending a second password based on an even automatically, and the second password replacing the password as the encryption key. Nevertheless, Van Oorschot does teach a method of replacing the password when it is expired (Col 6 lines 21-32).

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Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate Van oorschot teaching with Kung and Wu method to ensure a high security level of encryption at all time.

16. Claims 16, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung in view of Wu, further in view of Nendell, and further in view of Tachibana, Noriyuki.

17. As per claims 16, 18, and 23, Kung, Wu, and Nendell disclose the method as described in claims 11, 13, and 19. However, Kung, Wu, and Nendell do not teach the changing the password using the counter as part of the password and incremented the counter after each transmission. Nevertheless, Tachibana, Noriyuki discloses the "Secret securing system" invention, which teaches a method of using of the inputted digit as part of the password (also well known in the art as Counter) as password information and the time interval of the inputting a password to check the validity of the password (See the Constitution and Abstract). Therefore, It would have been obvious at the time of the invention was made for one of ordinary skill in the art to incorporate the timer (counter) as pad of the password to expire the password or ensure the validity of the password before accessing a secured resource (See the last sentence of the constitution). Since the password transmission increment the input digit of the password, it is also obvious that the transmission input digit here can be preset to expire



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the password or initialize the ding of a replacement password (See the 2nd and 3rd sentence of the Constitution).

18. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung in view of Wu, further in view of Nendell, and fudher in view of Eberle.

19. As per claims 25 and 26, Kung, Wu, and Nendell disclose the method and the apparatus as described in claim 19. However, Kung, Wu, and Nendell do not teach: the method of encrypting the data selectively', selection is based on determining a sensitivity of the data; analyze and determine the data packet is encrypted or not before deciphering it. Nevertheless, Eberle et al disclose the "Past dependent microcomputer cipher apparatus" invention, which includes all the features above. Eberle et al teach the use of the predetermined control characters of the encoded data to selectively encrypting or deciphering (Col 1 lines 5-10). The predetermined control character can be used to mark the sensitive data. Therefore it would be obvious at the time of the invention for one of ordinary skill in the art to combine method and as well the apparatus of Eberle with Scheidt method to ensure the integrity of the data file and to prevent hacker snooping the data content (Col 1 lines 20-25). Further more, Eberle et al invention mainly focus on a hardware apparatus. Nevertheless, the anticipation of using software instead of hardware to carry out the task is also clearly taught (Col 1 lines 45-55).

***Response to Arguments***

20. Applicant's arguments filed 07/21/05 have been fully considered but they are not persuasive.

21. As per remark on page 11, 2<sup>nd</sup> paragraph, Applicant argues that Kung never teaches or suggests "sending a request from a first computer to a second computer prior to establishing a secure connection, the first computer and the second computer included in a plurality of computers". As cited in the Office Action dated 03/09/05, Col 6 lines 23-40, *"When the user wishes to access information stored in the remote computer 13, the procedure 33 requests the secure communication procedure 32 to initiate a communication protocol session with the secure communication procedure 35. Both procedure 33 and procedure 32 are located within the workstation 11...."*, discloses the claimed feature clearly.

22. As per remark on page 11, 3<sup>rd</sup> paragraph, Applicant argues that Kung never teaches or suggests "receiving a response from the second computer, whereby the response informs the first computer that the second computer accepts encrypted data." As cited above, Kung discloses the steps of requesting and establishing a secure communication between the two computers. The steps involve initiating the request to establish the secure connection to successfully establishing the secure connection for data transferring. The informing step is explicitly discloses by Kung in the event of both parties acknowledging a successful connection establishment.

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23. As per remark on page 12, 1<sup>st</sup> paragraph, Applicant argues that Kung does not teach or suggest establishing the secure connection between the two computers. As cited above, it is clearly that Kung does disclose this feature.

24. As per remark on page 15, 1<sup>st</sup> paragraph, Applicant argues that Wu does not teach or suggest encrypting data using the password. As rejected in the Office Action dated 03/09/05, Examiner wrote "*However, Kung does not teach of implementing the password transferred over the secured communication as the encrypt/decrypt keys. Nevertheless, Wu teaches a method of generating a session key to encrypt/decrypt information transmitting between a client and a server with a function of the user's password (Col 5 lines 45-53, and Col 6 line 1-10). It would have been obvious at the time of the invention was made for one having ordinary skill in the art to modify Wu's teaching to use the simple password as the session key instead of spending processing time calculating the session key from the password and incorporate password session key with Kung's teaching to provide a simple-secured communication between two parties.*" Examiner explained clearly how Wu's teaching would be modified to incorporated with Kung. It is obvious that the modification and incorporation of Wu and Kung would obviously read on the claimed invention.

25. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

26. Therefore, the rejection basis dated 03/09/05 is maintained. See above.

***Conclusion***

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

28. Any inquiry concerning this communication from the examiner should be directed to Linh Son whose telephone number is (571)-272-3856.

29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kim Y. Vu can be reached at (571)-272-3859. The fax numbers for this group are (703)-872-9306 (official fax). Any inquiry of general nature or relating to the

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status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2100.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PMR only. For more information about the PAIR system, see <http://pzr-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Linh LD Son**

**Patent Examiner**

*Linh LD Son*  
Primary Examiner  
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